

In the Consistory Court of the Diocese of Leeds

In the matter of St Mary's, Woodkirk

Judgment

1. The Revd Sharon Wilkinson, Vicar of St Mary's Woodkirk, seeks the Court's directions pursuant to paragraph 17 of the Churchyard Directions. I am issuing a short judgment because the presenting issue is whether part of the inscription on a proposed headstone should be in Chinese characters. In the light of some recent controversy regarding non-English inscriptions, it is desirable to provide some general guidance for the diocese as a whole.

Procedure

2. No headstone may be erected in a churchyard without lawful authority. Generally that authority comes in the form of the incumbent's written permission. Parochial clergy have authority to permit the introduction of headstones provided they come within the parameters specified in the Churchyard Regulations. Anything falling outside the terms of the Regulations requires a faculty from the Diocesan Chancellor. See generally: *Re St John the Baptist, Adel* [2016] ECC Lee 8.
3. The current version of the Churchyard Regulations date from January 2018, re-issued without amendment as an appendix to Issue 3 of the Chancellor's General Directions dated April 2020. The Regulations are silent on the use in an inscription of languages other than English.
4. Paragraph 17 provides:

Where there is ambiguity as to whether a proposal comes within the incumbent's delegated authority, or where the incumbent is favourably disposed to the introduction of a headstone which may be just outside its scope, an application may be made by the incumbent to the Chancellor for the delegated authority to be extended so as to permit the proposal. Such applications will be considered on their merits on a case by case basis.
5. This is the provision which Ms Wilkinson has invoked to assist her in dealing with an enquiry from a parishioner.

The law

6. I take note of the prevalence of Latin and, though slightly less commonly, Greek on headstones, memorial plaques and funerary monuments. I am also aware that a headstone erected in 2002 on the grave of comedian Spike Milligan in the churchyard of St Thomas, Winchelsea (in the Diocese of Chichester) includes the Irish inscription *Dúirt mé leat go raibh mé breoite*, which roughly translates as 'I told you I was ill'. Certain online sources indicate that the diocesan authorities insisted that it was more fitting that such a light-hearted a remark be in Irish rather than English. At my request, the registrar and DAC secretary in the Diocese of Chichester have searched their respective archives. It would appear that the parish was in vacancy at the time and this compromise was brokered by the priest-in-charge and/or rural dean. The matter did not reach me (being the Chancellor at the time) and, whilst I cannot speculate on how I would have determined a petition, I would probably not have been averse to the inclusion of a joke in English on the headstone of a world renowned humorist. Be that as it may, the inclusion of an Irish phrase was agreed locally in that instance.

7. The judgment in the Consistory Court of the Diocese of Coventry of *Re St Giles, Exhall* [2020] ECC Cov 1, determined that the Irish expression *In ár gcroíthe go deo* could only appear on a headstone if it was accompanied by its English translation 'in our hearts forever'. Paragraph 16 of Eyre QC Ch's judgment reads:

The proposal in this case is [...] for a short phrase which the reader will immediately realise is conveying a message. However, it is a message which will be unintelligible to all but a small minority of readers. In those circumstances it is not appropriate for it to stand alone without translation. I make it clear that in saying this I am not in any sense adjudicating on the relative merits or standing of English and Irish Gaelic as languages. The situation would be likely to be wholly different if I were having to make a decision as to a memorial in the Irish Republic [*sic*]. However, the situation which I have to address is of a memorial in English-speaking Coventry. Should I permit an inscription which will be incomprehensible to almost all its readers? Not only would the message of the inscription not be understood but there is a risk of it being misunderstood. Given the passions and feelings connected with the use of Irish Gaelic there is a sad risk that the phrase would be regarded as some form of slogan or that its inclusion without translation would of itself be seen as a political statement. That is not appropriate and it follows that the phrase "*In ár gcroíthe go deo*" must be accompanied by a translation which can be in a smaller font size.

8. I am mindful that the Court of Arches has granted permission to appeal in this matter. Since the judgment of the Court of Arches will also be binding in the Northern Province in consequence of the new statutory deeming provision in section 14A of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, I will revisit this guidance when it has been delivered. But Ms Wilkinson's request needs a prompt answer.
9. I consider the expression 'English-speaking Coventry' somewhat unfortunate as it gives the impression of a monochrome community, as opposed to a rich and vibrant one which is ethnically, racially, culturally, religiously and linguistically plural and diverse. In addition, the prospect of a hypothetical future observer, unable to translate an expression, being inevitably drawn to the conclusion that the phrase represented a slogan or political statement strikes me as implausible.
10. In all likelihood, an enquiring observer would make use of one of the myriad apps currently available to translate the Irish phrase into English, thereby discovering how apposite it is. As Ellis Dep Ch QC (as she then was) observed in *Re St Peter & St Paul, Nutfield* [2018] ECC Swk 1: 'those who want to find out the meaning can, these days, easily look it up online'. That case concerned a Welsh term, *tangnefedd* (meaning 'peace') whose inclusion on a headstone was approved. Celtic Christianity has a long association with these Islands and the wish to remember a loved one using a language with such a fine tradition seems entirely understandable.
11. It should also be noted that the legal right to be buried in a Church of England churchyard is not restricted to English-speaking Anglicans. On the contrary, every parishioner and every person dying in the parish is entitled by law to be buried in the parish churchyard or burial ground if there is one, regardless of whether they are a member of the Church of England or even Christian. This right is the corollary of the minister's duty to bury under Canon B 38 para 2. It extends to those whose names are entered on the church electoral roll of a parish at the time of their death: Church of England (Miscellaneous Provisions) Measure 1976, s 6(1). See M Hill, *Ecclesiastical Law* (Fourth edition, Oxford University Press, 2018) at para 5.53. One of the features of a Church by law established is that its civic functions are not confined to its members (howsoever defined) but extend to the population as a whole. This is particularly the case in relation to marriage and burial. It is unsurprising that with a mixed economy of

burials, there are likely to be legitimate demands for an inclusive approach to what is written on headstones, and in what language. I incline to the view that the Church of England should lean towards generosity and expansiveness, provided that proposed inscriptions are not contrary to Christian teaching and doctrine.

The facts of this case

12. The facts of this case are straightforward. The enquiry relates to the inclusion of the deceased's name in Chinese characters as well as in English, and perhaps an additional phrase in Chinese. I can see no objection to either provided, in the case of the latter, that the phrase is consistent with (or at least not contrary to) Christian doctrine.

Future guidance in this diocese

13. In my judgment, to the extent that the decision in *Re St Giles, Exhall* seeks to declare propositions of general application, they are ones which I would prefer not to adopt for the reasons briefly given above. I offer the following guidance to assist the clergy of the Diocese of Leeds in determining applications for the introduction of memorials under their delegated authority contained in the Churchyard Regulations.
- i. There is no general prohibition on the inclusion in inscriptions on headstones of words or phrases in a language other than English;
 - ii. There is no general requirement for an English translation to be additionally inscribed on headstones (whether in a smaller font or otherwise) whenever non-English words or phrases are permitted;
 - iii. To the contrary, in a linguistically diverse nation, liberty should be afforded to the bereaved to memorialise their loved ones in a language which reflects a range of features including their heritage, culture, nationality, race and ethnicity;
 - iv. However, clergy should be astute to refuse the inclusion of words or phrases which have the potential to offend Christian doctrine or teaching.
14. One of the hardest tasks we give to our parochial clergy arises from Churchyard Regulations, where they have to communicate with clarity to the bereaved who are often distressed in the rawness of their grief. The Diocese of Leeds is blessed to have dedicated clergy with pastoral hearts who generally navigate these complex issues with skill and sensitivity. I hope this guidance will assist them in continuing to do so in the future.

Disposal

15. In all the circumstances of this case, I make a declaration under paragraph 17 of the Churchyard Regulations to the effect that the Revd Sharon Wilkinson may permit the introduction of a headstone into the churchyard which includes Chinese characters in the proposed inscription.
16. The purpose of this judgment was to provide clarity and guidance for the clergy of the Diocese of Leeds and accordingly no court fees are payable.